

# THE CONSTITUTION OF ALABAMA 1901

a Legislator's guide

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# GUIDEPOSTS

- **Foundation**
- History
- Amendments
- How does it impact you as Legislators
- Discussion

# WHAT IS A CONSTITUTION

- **Black's Law Dictionary**- "The organic and **fundamental law** of a nation or state, which may be written or unwritten, **establishing the character and conception of its government**, laying the **basic principles** to which its internal life is to conformed, organizing the government, and regulating, distributing, and limiting the functions of its different departments, and prescribing the extent and manner of the exercise of sovereign powers. A charter of government deriving its whole authority from the governed. ..."
- Shorthand – A contract between a government and her people setting forth the terms by which they agree to be governed.



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# ALABAMA'S SIX CONSTITUTIONS

- 1819 Statehood
- 1861 Succession
- 1865 Reorganization
- 1868 Reconstruction
- 1875
- 1901 Current

# EFFORTS AT REVISION

- Brewer Commission
- Chief Justice Heflin Article VI Revision
- James Commission
  - *State v. Manley*
- Representative Jack Venable
  - Suffrage Article
- Riley Commission
- Marsh Constitutional Revision Commission
  - Distribution of Power, Impeachment, Corporate, Banking, and Administrative Powers (Also looked at Education and Local Amendments)



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# AMENDMENTS: BACKGROUND

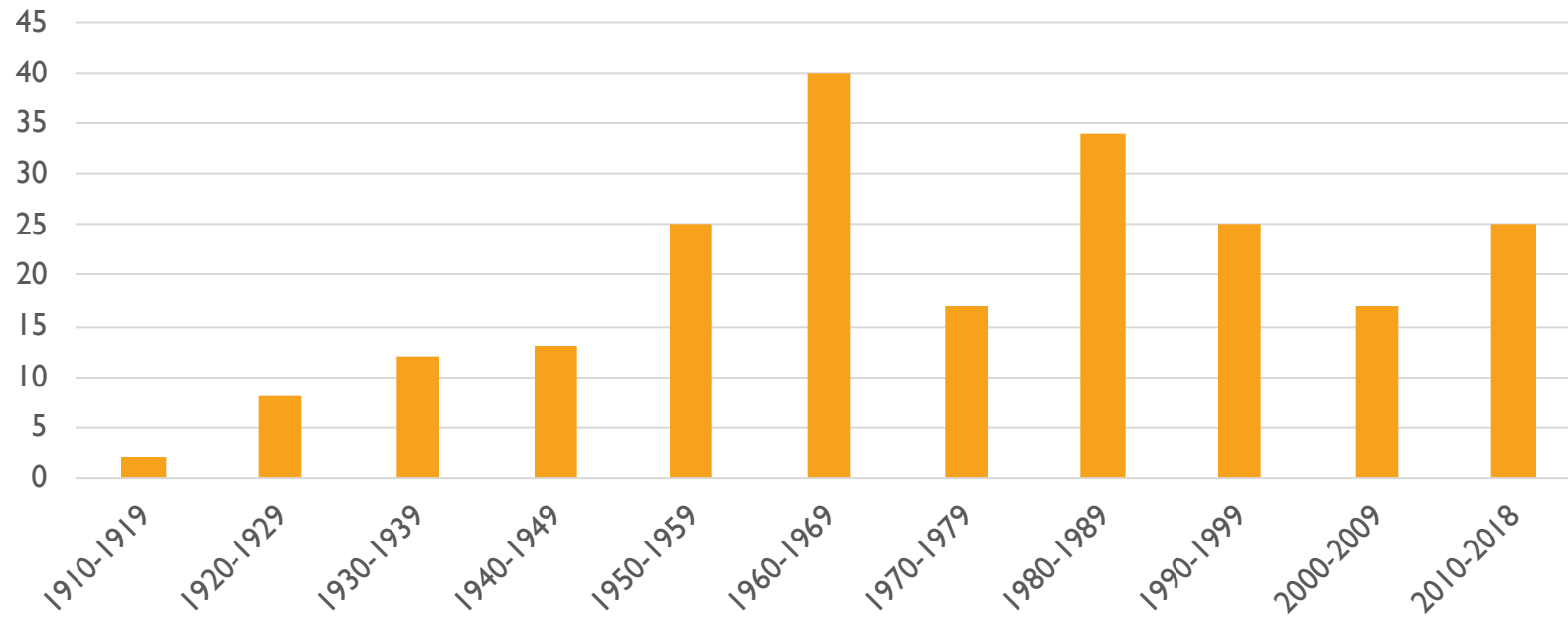
- Section 93
  - The state shall not engage in works of internal improvement, nor lend money or its credit in aid of such; nor shall the state be interested in any private or corporate enterprise, or lend money or its credit to any individual, association, or corporation.
- Amendment I (1907)
  - The state shall not engage in work of internal improvement nor lend money or its credit in aid of such; nor shall the state be interested in any private or corporate enterprises or lend money or its credit to any individual, association, or corporation, **provided that the state may under appropriate laws cause the net proceeds from the state convict fund to be applied to the construction, repair and maintenance of public roads in the state and the legislature may also make additional appropriations for that purpose.**



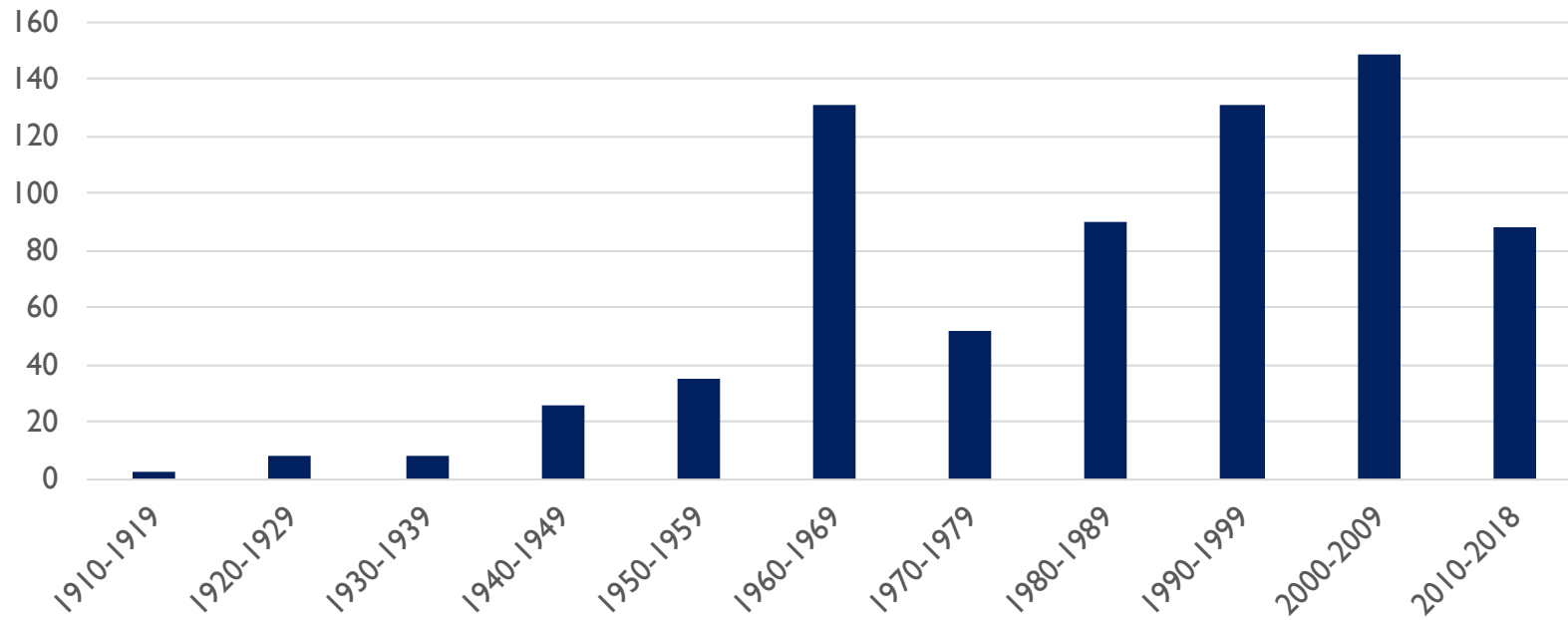
# AMENDMENTS VOLUME

- Amended 944 times through 2018
  - 223 Statewide Amendments
  - 721 Local Amendments

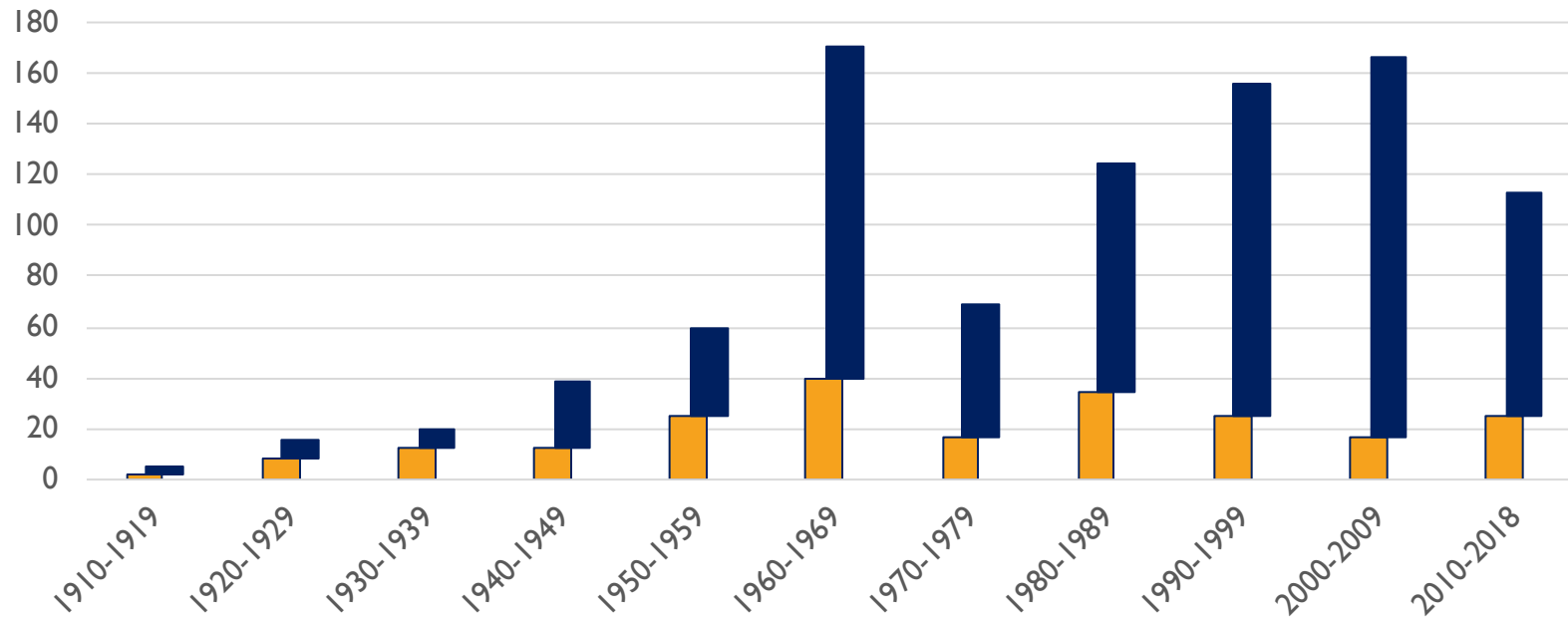
# STATEWIDE AMENDMENTS BY DECADE



# LOCAL AMENDMENTS BY DECADE



# TOTAL AMENDMENTS BY DECADE



# RATIFICATION RATES

Year	Statewide Proposed	Statewide Passed	% Statewide Passed	Local Proposed	Local Passed	% Local Passed	Total Proposed	Total Passed	% Total Passed
1992	2	2	100%	9	6	67%	11	8	73%
1994	4	4	100%	22	14	64%	26	18	69%
1996	5	4	80%	17	15	88%	22	19	86%
1998	11	10	91%	35	33	94%	46	43	93%
1999	3	1	33%	3	2	67%	6	3	50%
2000	14	14	100%	35	28	80%	49	42	86%
2002	4	3	75%	34	31	91%	38	34	89%
2003	1	0	0%	N/A	N/A	N/A	1	1	100%
2004	8	3	38%	22	12	55%	30	15	50%
2006	4	3	75%	22	19	86%	26	22	85%
2007	2	2	100%	2	2	100%	4	4	100%
2008	6	5	83%	29	20	69%	35	25	71%
2010	5	0	0%	38	24	63%	43	24	56%
2012	12	11	92%	19	14	74%	31	25	81%
2014	6	6	100%	4	4	100%	10	10	100%
2016	15	15	100%	22	21	95%	37	36	97%
2018	4	4	100%	15	14	93%	19	18	95%



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## ARTICLE III: DISTRIBUTION OF POWERS

- Express Separation of Powers
- Slants towards Legislative Branch
  - Veto = simple majority
  - Section 43: No order of a state court which requires disbursement of state funds shall be binding on the state or any state official until the order has been approved by a simple majority of both houses of the Legislature.

## ARTICLE IV: LEGISLATIVE ARTICLE

- Establishes the manner and constraints by which the Legislature operates
- Sets parameters on session times and duration
- Establishes the officers of the bodies
- Enumerates a number of restrictions on how business is done



## SECTION 45

- The style of the laws of this state shall be: "Be it enacted by the legislature of Alabama," which need not be repeated, but the act shall be divided into sections for convenience, according to substance, and the sections designated merely by figures. Each law shall contain but **one subject**, which shall be clearly expressed in its title, except general appropriation bills, general revenue bills, and bills adopting a code, digest, or revision of statutes; and no law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only; but so much thereof as is revived, amended, extended, or conferred, shall be re-enacted and published at length.

## SECTION 53

- Each house shall have **power to determine the rules of its proceedings** and to punish its members and other persons, for contempt or disorderly behavior in its presence; to enforce obedience to its processes; to protect its members against violence, or offers of bribes or corrupt solicitation; and with the concurrence of two-thirds of the house, to expel a member, but not a second time for the same offense; and the two houses **shall have all the powers necessary for the legislature of a free state.**

## SECTION 56

- Members of the legislature shall, in all cases, except treason, felony, violation of their oath of office, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house shall not be questioned in any other place.
- **Legislative Privilege: Section 29-6-7.1**

## SECTION 6I

- No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its **original purpose**.

## SECTION 62

- No bill shall become a law until it shall have been referred to a standing committee of each house, acted upon by such committee in session, and returned therefrom, which facts shall affirmatively appear upon the journal of each house.

## SECTION 63

- Every bill shall be read on **three different days** in each house, and no bill shall become a law, unless on its final passage it be read at length, and the vote be taken by yeas and nays, the names of the members voting for and against the same be entered upon the journals, and a majority of each house be recorded thereon as voting in its favor, except as otherwise provided in this Constitution.

## SECTION 70

- All bills for **raising revenue shall originate in the house of representatives**. The governor, auditor, and attorney-general shall, before each regular session of the legislature, prepare a general revenue bill to be submitted to the legislature, for its information, and the secretary of state shall have printed for the use of the legislature a sufficient number of copies of the bill so prepared, which the governor shall transmit to the house of representatives as soon as organized, to be used or dealt with as that house may elect. The senate may propose amendments to revenue bills. **No revenue bill shall be passed during the last five days of the session.**

## SECTION 71

- The general appropriation bill shall embrace nothing but appropriations for the **ordinary expenses of the executive, legislative, and judicial departments of the state, for interest on the public debt, and for the public schools.** The salary of no officer or employee shall be increased in such bill, nor shall any appropriation be made therein for any officer or employee unless his employment and the amount of his salary have already been provided for by law. **All other appropriations shall be made by separate bills, each embracing but one subject.**



## SECTION 71.01

- Paramount duty of the Legislature to make basic appropriations at regular session...
- Budget Isolation Resolution "BIR"
- Requires each body to pass a resolution by a 3/5 vote of a quorum present to take up a non-appropriation bill before the budgets are passed

## SECTION 73

- No appropriation shall be made to any charitable or educational institution not under the absolute control of the state, other than normal schools established by law for the professional training of teachers for the public schools of the state, except by a vote of two-thirds of all the members elected to each house.

## SECTION 82

- A member of the legislature who has a **personal or private interest** in any measure or bill proposed or pending before the legislature, **shall disclose the fact** to the house of which he is a member, and shall not vote thereon.

## SECTION 95

- There can be no law of this state impairing the obligation of contracts by destroying or impairing the remedy for their enforcement; and the legislature shall have no power to revive any right or remedy which may have become barred by lapse of time, or by any statute of this state. After suit has been commenced on any cause of action, the legislature shall have no power to take away such cause of action, or destroy any existing defense to such suit.

## SECTION 104

- Prohibitions on special, private, or local laws
  - Cannot grant a divorce
  - Cannot change the name of a corporation, association, or individual
  - Grant a charter
  - Change venue in a case

## SECTION 105

- No special, private, or local law, except a law fixing the time of holding courts, shall be enacted in any case which is provided for by a general law, or when the relief sought can be given by any court of this state; and the courts, and not the legislature, shall judge as to whether the matter of said law is provided for by a general law, and as to whether the relief sought can be given by any court; nor shall the legislature indirectly enact any such special, private, or local law by the partial repeal of a general law.
- Section 89- Legislature cannot authorize a municipality pass laws that are inconsistent with general law.

## SECTION 106

- No special, private, or local law shall be passed on any subject not enumerated in section 104 of this Constitution, except in reference to fixing the time of holding courts, unless notice of the intention to apply therefor shall have been published, without cost to the state, in the county or counties where the matter or thing to be affected may be situated, which notice shall **state the substance of the proposed law and be published at least once a week for four consecutive weeks** in some newspaper published in such county or counties or if there is no newspaper published therein, then by posting the said notice for two consecutive weeks at five different places in the county or counties prior to the introduction of the bill; and proof that said notice has been given shall be exhibited to each house of the legislature through a certification by the clerk of the house or secretary of the senate that notice and proof was attached to the subject local legislation and the notice and proof shall be attached to the original copy of the subject bill and shall be filed in the department of archives and history where it shall constitute a public record. The courts **shall pronounce void** every special, private, or local law which the journals do not affirmatively show was passed in accordance with the provisions of this section.

## SECTION 107

- The legislature shall not, by a special, private, or local law, repeal or modify any special, private, or local law except upon notice being given and shown as provided in the last preceding section.



## SECTION 111.05 (AMENDMENT 621)

- No general law, or state executive order whose purpose or effect is to require a **new or increased expenditure of funds** held or disbursed by the governing body of a municipality or county, or an instrumentality thereof, or a city or county board of education shall become effective as to any municipality or county, or an instrumentality thereof, or a city or county board of education until approved by an ordinance enacted, or a resolution adopted, by the governing authority of the affected municipality, county, instrumentality, or board of education or until, and only as long as, the Legislature appropriates funds for the purpose to the affected municipality, county, instrumentality, or board and only to the extent and amount that the funds are provided, or until a law provides for a local source of revenue within the municipality, county, instrumentality, or board for the stated purpose and the affected municipality, county, instrumentality, or board is authorized by ordinance or resolution to levy and collect the revenue and only to the extent and amount of the revenue.

## ARTICLE V: EXECUTIVE BRANCH

- Establishes the Executive Branch and its officers
- Section 122- Governor has power to call Special Session
  - Section 76 governs terms
- Section 125 Governs the Presentation of Bills to the Governor

## ARTICLE VI: JUDICIAL BRANCH

- Establishes the Judicial Branch of Government and its Officers
- Section 150 gives the Legislature concurrent rule making authority
- Section 151 gives the Legislature the authority over the number of District and Circuit Judges and their Boundaries

## ARTICLE VII: IMPEACHMENT

- Legislature has sole authority over impeachment proceedings pursuant to Section 173

## ARTICLE IX: TAXATION

- 211.02 (Amendment 61): Income Tax “placed in the state treasury to the credit of the Alabama special education trust fund to be used for the payment of public school teachers salaries only.
- 111.06 (Amendment 354): Road & Bridge Fund “No moneys derived from any fees, excises, or license taxes, levied by the state, relating to registration, operation, or use of vehicles upon the public highways...shall be expended for other than cost of administering such laws, statutory refunds and adjustments allowed therein, cost of construction, reconstruction, maintenance and repair of public highways and bridges, costs of highway rights-of-way, payment of highway obligations, the cost of traffic regulation, and the expense of enforcing state traffic and motor vehicle laws.”
- 217 (Amendment 373): Ad valorem structure

# ARTICLE XVIII: MODES OF AMENDING

- Section 284: Statewide Amendments
  - 3/5 vote of membership
  - Go straight to ballot after passage
- Section 284.01 Local Amendments
  - Substance
  - Resolution of local application



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